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DEPT PASS TO L/DL - SUSAN BENDA AND DS/OFM/TPB - RICHARD MASSEY; BERN FOR STEPHEN DODSON

E.O. 12958: N/A

TAGS: AMGT KLIG SW

SUBJECT: TAXATION OF UN MISSION RESIDENCES

REF: STATE 133522 (NOTAL)

¶11. Summary. Reftel requested information about Swiss taxation of foreign-owned diplomatic mission residences, and asked post to describe any USG or post-owned properties used as residences by US Mission personnel. Mission can confirm that there are no/no USG-owned properties used as residences by U.S. Mission Geneva personnel, including chiefs of mission. In a call to Embassy Bern, Mission learned that USG owns the chancery complex of approximately four buildings, including TDY apartments, and the Ambassador's residence, but owns no properties used as residences by other U.S. Embassy personnel. Swiss MFA lawyer Danielle Werthmueller confirmed that Switzerland grants tax exempt status to real property owned by foreign governments and used for the premises of the mission and the residence of the chief of mission, but does not/not exempt government-owned real property used as residences for other diplomatic personnel. GOS extends the same real property tax treatment to bilateral missions and missions to the UN and other international organizations.
End summary.

¶12. Per reftel, Mission Legal Adviser met with Swiss MFA lawyer Danielle Werthmueller, who handles privileges and immunities issues for the Swiss Mission to the UN in Geneva. Werthmueller explained that Switzerland does not/not exempt from taxes foreign government-owned real property used as residences by diplomatic staff below the level of chief of mission. Only foreign government-owned mission or chancery premises and the residences of the chiefs of mission are granted real property tax exemptions. According to Werthmueller, this practice applies uniformly to foreign government-owned properties used by bilateral diplomatic representatives and by representatives to UN and other international organizations in Switzerland.

¶13. According to Werthmueller, Swiss practice on real property tax exemptions has been consistent since the late 1940s, and reflects its obligations under international law. In a Decree of the Federal Council dated March 31, 1948, permanent missions in Geneva were given a status analogous to that granted to diplomatic missions established in Bern, and this was continued in amendments dated May 20, 1958 and November 3, 1967. Since Swiss accession to the 1961 Vienna Convention on Diplomatic Relations, codified at RS 0.191.01 of the Swiss Federal Code, the Convention has been the international legal basis for this tax exemption. Application of the Convention provisions to permanent missions in Geneva is reflected in the 1967 amendment to the Federal Council Decree.

¶14. Mission Legal Adviser queried Werthmueller on the reasons behind the 1948 Federal Council Decree, but she was unable to shed any light on the question. She did provide a booklet prepared by Amadeo Perez, the Legal Adviser to the Swiss

Mission, which contains some historical background. Mission will scan and email booklet to L/DL - Susan Benda. Swiss federal laws are available at www.admin.ch in French, German, and Italian. Mission will email relevant provisions to L/DL.

¶5. In response to query about USG-owned property, post confirms that USG owns mission complex, but does not/not own any residential properties, including for chiefs of mission. Per L/DL telephone request Mission called Embassy Bern and learned that USG owns the chancery complex of approximately four buildings, including TDY apartments, and the residence of the Ambassador but does not own any other staff residences.

CHAMMAS